IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21346 of 2004

Between:

M/s Sri Thirumala Filling Station, Rep. by M. Krishna Murthy

S/o Venkata Narsaiah, R/o Thoroor Village & Mandal, Warangal District

..... PETITIONER

AND

1 Indian Oil Corporation Limited, Rep. by

the Chief Divisional Manager (Retail Sales),
Secunderabad Division, Naspur House, Hyderabad.
2 Saurabh Jaiswal, Retail Sales Executive(Lubes)
Goods Shed Road, Warangal - 506 002.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in issuing the impugned proceedings No. SDO/R/326 dt.18-11-2004 basing on the inspection report of the 2nd Respondent dt. 17-11-2004 who has no authority whatsoever to inspect and make enquiries in respect of seals put by the W & M Department and come to a conclusion that the Petitioner has tampered the seals thereby suspend the license of the Petitioner without any notice or opportunity whatsoever as arbitrary, illegal and violative of Article 14, 19(1) (g), 21 of the Constitution of India, in gross violations of principles of natural justice, and set aside the same.

Counsel for the Petitioner: MR.HARENDER PRASAD

Counsel for the Respondents : MR.P.V.SANJAY KUMAR

The Court at the admission stage, made the following :

HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION No. 21346 Of 2004

ORDER:

At the instance of the learned counsel appearing for both the parties, the main writ petition itself is taken up for disposal.

2. The present Writ Petition is filed challenging the impugned proceedings No.SDO/R/326, dated 18-11-2004 basing on the Inspection Report of the 2nd respondent dated 17-11-2004, with regard to the sales of petroleum products of the writ petitioner have been suspended pending further orders and the sales have to be closed with immediate effect.

3. The learned counsel appearing for the petitioner Sri K.Prakash Reddy, though, contended with regard to the tampering of the seals, which has been incorporated after the signature of the dealer. But, when the matter is taken up today, he fairly brought to the notice of this Court that column No.14 would clearly indicate that there was a tampering of seals. Therefore, he prays, in the interest of public, the outlet of the petitioner may have to be inspected by the Weights and Measurements Department and necessary seals may be affixed so that the sales can be continued.

4. On the other hand, the learned Standing Counsel Sri P.V.Sanjay Kumar appearing for the 1st respondent contended that *prima facie* the petitioner indulged in tampering of seals and as per the understanding between the Corporation and the dealers, the sales have to be stopped immediately and therefore, the writ petitioner can as well give explanation to the show cause notice and the necessary final orders will be passed within a reasonable time. Hence, he prays that there are no grounds to quash the proceedings.

5. The impugned proceedings is a show cause notice dated 18-11-2004 calling for the explanation of the petitioner as there was a short-delivery and also tampering of seals with the certain pumps. The authority who issued the order is not under challenge. *Prima facie,* the detailed outlet inspection analysis report goes to show that there was a tampering of seals. As per the understanding between the dealers of the association and the Corporation, when there is a short delivery with seals tampered, then the sales from the concerned unit have to be suspended immediately and at the same time it is required to be noticed that it is an outlet which will cause inconvenience to the general public. Therefore, necessary direction can be given to the 1st respondent-Corporation to pass appropriate orders as the petitioner has already given his explanation.

6. Therefore, in the facts and circumstances of the case, the 1st respondent is directed to pass appropriate orders in accordance with law, considering the explanation given by the writ petitioner, within three (3) days from the date of receipt of a copy of this order. However, it is made clear that any observation or finding given in this petition is only for the purpose of disposal of the writ petition. Uninfluenced by the observation or finding, the respondent-Corporation shall pass appropriate orders in accordance with the Rules.

7. With the above said observation, the writ petition is disposed of. No order as to costs.

November 23, 2004

Issue C.C. today.

B/o.

Kvr

To

1. The Chief Divisional Manager (Retail Sales),Indian Oil Corporation Limited, Secunderabad Division, Naspur House, Hyderabad.
2 Two C.Ds.